

ASSEMBLY BILL

No. 188

Introduced by Assembly Member Vargas

February 7, 2001

An act to add Section 104495 to the Health and Safety Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 188, as introduced, Vargas. Public park smoking.

Existing law provides for the establishment of programs relating to tobacco use prevention.

This bill would prohibit the smoking of any cigarette, cigar or other tobacco-related product within 50 feet of any tot lot sandbox area, which is located in a public park. This prohibition would not affect smoking on private property.

This bill would prohibit any person from disposing of any cigarette, cigarette butts, cigar butts, and any other tobacco-related waste within 50 feet of the tot lot sandbox area.

This bill would also prohibit any person from intimidating, threatening any reprisal, or effecting any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with the provisions of this section.

This bill would make a violation of these provisions an infraction. This bill, by creating a new infraction, would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Secondhand smoke also known as environmental tobacco
4 smoke is responsible for approximately 3,000 lung cancer deaths
5 each year in nonsmoking adults and impairs the respiratory health
6 of hundreds of thousands of children.

7 (b) Secondhand smoke exposure increases the risk of lower
8 respiratory tract infections, including bronchitis and pneumonia,
9 which occur in infants and young children up to 18 months of age.

10 (c) Secondhand smoke increases the prevalence of fluid in the
11 middle ear, a sign of middle ear disease.

12 (d) Secondhand smoke increases the frequency of episodes and
13 severity of symptoms of asthmatic children.

14 SEC. 2. Section 104495 is added to the Health and Safety
15 Code, to read:

16 104495. (a) For the purposes of this section the following
17 definitions shall govern:

18 (1) "Tot lot sandbox area" means a designated play area within
19 a public park for the use by children under five years of age. Where
20 such areas are not contained by a fence, the boundary of a tot lot
21 sandbox area shall be considered 50 feet from the perimeter of the
22 tot lot sandbox area, as defined by the edge of the resilient surface
23 of safety material such as concrete or wood, or any other material
24 surrounding the tot lot sandbox area.

25 (2) "Public park" includes a park operated by a public agency.

26 (3) "Smoke or Smoking" means the carrying of a lighted pipe,
27 lighted cigar, or lighted cigarette of any kind, or the lighting of a
28 pipe, cigar, or cigarette of any kind, including, but not limited to,
29 tobacco, or any other weed or plant.

30 (4) "Cigarette" means the same as defined in Section 104556.

31 (5) "Cigar" means the same as defined in Section 104550.

1 (b) No person shall smoke a cigarette, cigar, or pipe within 50
2 feet of the boundaries of any public park tot lot sandbox area. This
3 prohibition shall not apply to private property.

4 (c) No person shall dispose of cigarette butts, cigar butts, and
5 any other tobacco-related waste within 50 feet of the tot lot
6 sandbox area.

7 (d) No person shall intimidate, threaten any reprisal, or effect
8 any reprisal, for the purpose of retaliating against another person
9 who seeks to attain compliance with this section.

10 (e) Any person who violates this section is guilty of an
11 infraction and shall be punished by a fine of one hundred dollars
12 (\$100) for each violation of subdivision (a).

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

